

PEARSON, MJ

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

TERI M. FOX,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY
ADMINISTRATION,

Defendant.

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CASE NO. 5:08CV2975

JUDGE O'MALLEY

MAGISTRATE JUDGE PEARSON

REPORT AND RECOMMENDATION

Introduction

On January 12, 2009, the above referenced matter was referred to this Court for the preparation of a report and recommendation pursuant to Local Rule 72.2. Pending before the Court is Defendant's Amended Motion for Remand. [ECF No. 16](#).

I. Procedural History

Plaintiff Teri M. Fox filed a complaint on December 22, 2008. [ECF No. 1](#). The Commissioner of the Social Security Administration ("Commissioner") answered on March 19, 2009. [ECF No. 10](#). On April 20, 2009, Fox filed a Brief on the Merits. [ECF No. 12](#). In advance of the filing of the Commissioner's brief on the merits, the Commissioner filed a Motion For Remand and a subsequent Amended Motion for Remand, which is well taken by the Court. [ECF Nos. 15 & 16](#). The Commissioner moves the Court to "enter judgment under the fourth sentence of 42 U.S.C. § 404(g), reversing the agency's decision with remand to the Commissioner for a

(5:08CV2975)

fully favorable decision and an award of benefits.” [ECF No. 16 at 1](#). Plaintiff has no objection to the Commissioner’s Amended Motion for Remand.

II. Recommendation

Upon review of the record, the Court recommends granting the Commissioner’s Amended Motion for Remand. The Court further recommends that the Commissioner’s decision that Plaintiff Teri M. Fox is not disabled and therefore not entitled to benefits under the Act be reversed pursuant to Sentence Four of Title [42 U.S.C. § 405\(g\)](#) and that this matter be remanded to the Social Security Administration for the determination and payment of benefits consistent with the Social Security Act.¹

This matter is terminated from the docket of this Court.

July 8, 2009
Date

s/ Benita Y. Pearson
United States Magistrate Judge

OBJECTIONS

Objections to this Report and Recommendation must be filed with the Clerk of Courts within ten (10) days of receipt of this notice. Failure to file objections within the specified time waives the right to appeal the District Court’s order. *See* [United States v. Walters, 638 F.2d 947 \(6th Cir. 1981\)](#); *see also* [Thomas v. Arn, 474 U.S. 140 \(1985\), reh’g denied, 474 U.S. 1111 \(1986\)](#).

¹ The Court has authority to affirm, modify, or reverse the Commissioner’s decision “with or without remanding the cause for rehearing.” [Melkonyan v. Sullivan, 501 U.S. 89, 98 \(1991\)](#); *see* [Faucher v. Sec’y of Health & Human Servs., 17 F.3d 171, 175-76 \(6th Cir.1994\)](#).